

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

EARL J. HIBBITTS	:	
	:	C.A. No.
v.	:	
CHARLES HALE, INDIAN RIVER	:	
TRANSPORT, INC. HERITAGE EQUIPMENT	:	
LEASING, LLC and HERITAGE	:	
MANAGEMENT GROUP, INC.	:	

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE:

Defendants, Charles Hale (hereinafter "Hale"), Indian River Transport, Inc. (hereinafter "IRT"), Heritage Equipment Leasing, LLC (hereinafter "HEL") and Heritage Management Group, Inc. (hereinafter "HMG") (all defendants collectively referred to as "Defendants") by and through their attorneys, Rawle and Henderson, LLP, respectfully aver as follows:

1. Plaintiff has commenced a civil action against defendants in the Superior Court of Delaware in and for New Castle County. (*See Complaint attached as Exhibit "A."*) Service was effectuated no earlier than the issuance of the July 10, 2008 summons. (*See docket report attached as Exhibit "B"*).

2. Accordingly, this Notice of Removal was timely filed within thirty (30) days of receipt of the information indicating that the jurisdictional amount may be satisfied pursuant to 28 U.S.C. §1446 (b).

3. In the Complaint, Plaintiff alleged that as a result of the accident at issue in this lawsuit, he:

" sustained injuries to his head, neck, back, shoulders, right upper extremity, left upper extremity, left lower extremity, and other injuries, some or all of which may be permanent, pain and suffering, mental distress, a loss of earnings, and other damages. "See Exhibit A ¶4.

4. Based upon a fair reading of the Complaint, plaintiff has set forth a claim in which an amount in excess of the jurisdictional limit of \$75,000, exclusive of interest and costs, may be at stake.

5. In addition, plaintiff made a demand of \$240,000. *See Exhibit C.*

6. Defendant, Charles Hale at all material times, is and was a resident of the State of Florida.

7. Defendant, Indian River Transport, Inc. at all material times was and is a resident of the State of Florida. *See Exhibit D.*

8. Defendant Heritage Equipment Leasing, LLC at all material times was and is a resident of the State of Florida. *See Exhibit E.*

9. Heritage Equipment Leasing, LLC has one member, John Harned. John Harned is a resident of Florida.

10. Defendant Heritage Management Group, Inc. at all material times was and is a resident of the State of Florida. *See Exhibit F.*

11. At all material times hereto, based upon information and belief, plaintiff is and was a citizen of Delaware. *See Exhibit A.*

8. Diversity of citizenship within the meaning of 28 U.S.C. §1332, exists between plaintiff and defendants since:

- (a) plaintiff is a citizen and resident of the State of Delaware; and
- (b) defendants are not a citizens or residents of the State of Delaware.

9. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing of this notice, such that defendants are entitled to removal pursuant to 28 U.S.C. §1441 as amended, and 28 U.S.C. §1446.

10. All Defendants are represented by the firm of Rawle & Henderson, LLP and all consent to the Removal of the litigation to United States District Court.

WHEREFORE, defendants, Charles Hale, Indian River Transport, Inc., Heritage Equipment Leasing, LLC and Heritage Management Group, Inc. pray that the above-captioned action now pending in the Superior Court of Delaware in and for New Castle County, be removed there from to this Honorable Court.

**RAWLE & HENDERSON LLP**

By: 

Delia A. Clark (DAC #3337)

Attorneys for Defendants,

Charles Hale, Indian River Transport, Inc.

Heritage Equipment Leasing, LLC, and

Heritage Management Group, Inc.

300 Delaware Avenue, Ste. 1015

Wilmington, DE 19801

(302) 778-1200


Date: August 8, 2008

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the within-captioned Notice of Removal Pursuant to 28 U.S.C. §1446(d) was served via first-class mail, postage prepaid, on counsel for plaintiff listed below:

Lawrance Spiller Kimmel, Esquire  
Kimmel, Carter, Roman & Peltz, P.A.  
56 W. Main Street, Fourth Floor  
Plaza 273  
Newark, DE 19702

RAWLE & HENDERSON LLP

  
\_\_\_\_\_  
Delia A. Clark

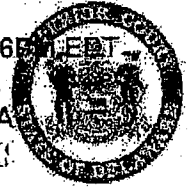
Dated: August 8, 2008

## **EXHIBIT “A”**

EFiled: Jun 26 2008 6:56 PM

Transaction ID 20427072

Case No. 08C-06-223 PLA



## SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CI)

COUNTY: (New Castle) Kent Sussex

CIVIL ACTION NUMBER: \_\_\_\_\_

<b>CAPTION:</b> <u>EARL J. HIBBITTS</u>  <u>Plaintiff,</u>  <u>v.</u>  <u>CHARLES HALE, INDIAN RIVER TRANSPORT, INC.,</u> <u>HERITAGE EQUIPMENT LEASING, LLC, and</u> <u>HERITAGE MANAGEMENT GROUP, INC.,</u>  <u>Defendants.</u>	Civil Case Code: <u>CPIA</u>  Civil Case Type: <u>Personal Injury Auto</u>  Name and Status of Party filing document: <u>EARL J. HIBBITTS, Plaintiff</u>  Document Type: (E.G. Complaint; Answer with Counterclaim) <u>COMPLAINT, SUMMONS, ANSWER TO FORM 30</u> <u>INTERROGATORIES, AND PRAECIPE.</u>  JURY DEMAND: <u>X</u> Yes <u>  </u> No
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<b>ATTORNEY NAME:</b> <u>Lawrance Spiller Kimmel, Esq.</u>  <b>ATTORNEY ID:</b> <u>4725</u>  <b>FIRM NAME:</b> <u>Kimmel, Carter, Roman &amp; Peltz</u>  <b>ADDRESS:</b> <u>Plaza 273</u>  <u>56 West Main Street, 4<sup>th</sup> Floor</u>  <u>Newark, Delaware 19702</u>  <b>TELEPHONE NUMBER:</b> <u>(302) 565-6100</u>  <b>FAX NUMBER:</b> <u>(302) 565-6101</u>  <b>E-MAIL ADDRESS:</b> <u>lkimmel@kcrclaw.com</u>	<b>IDENTIFY ANY RELATED CASES NOW PENDING IN THE SUPERIOR COURT BY CAPTION AND CIVIL ACTION NUMBER INCLUDING JUDGE'S INITIALS:</b>  <u>None.</u>  <b>EXPLAIN THE RELATIONSHIP:</b>  <u>Not Applicable</u>     <b>OTHER UNUSUAL ISSUES THAT AFFECT CASE MANAGEMENT:</b>  <u>Not Applicable</u>
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Transaction ID 20427072  
Case No. 08C-06-223 PLA



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

EARL J. HIBBITTS,

Plaintiff,

v.

CHARLES HALE,  
INDIAN RIVER TRANSPORT, INC.,  
HERITAGE EQUIPMENT  
LEASING, LLC, and, HERITAGE  
MANAGEMENT GROUP, INC,

Defendants.

C.A. No.:

NON-ARBITRATION CASE

JURY TRIAL DEMANDED

PRAECIPE

PLEASE ISSUE SUMMONS, COMPLAINT, and PLAINTIFF'S ANSWERS  
TO SUPERIOR COURT FORM 30 INTERROGATORIES on:

- 1) Defendant Charles Hale at 2580 Executive Road, Winterhaven, FL 33884,  
through the Secretary of State pursuant to 10 Del.C. § 3112;
- 2) Defendant Indian River Transport, Inc., through the corporation itself at 2580  
Executive Road, Winterhaven, FL 33884, through the Secretary of State pursuant to 10  
Del.C. § 3104.
- 3) Defendant Heritage Equipment Leasing, LLC, through the corporation itself at  
2580 Executive Road, Winterhaven, FL 33884, through the Secretary of State pursuant to  
10 Del.C. § 3104;
- 4) Defendant Heritage Management Group, LLC, through the corporation itself at  
2580 Executive Road, Winterhaven, FL 33884, through the Secretary of State pursuant to  
10 Del.C. § 3104.

/s/ LAWRENCE SPILLER KIMMEL  
LAWRENCE SPILLER KIMMEL, ESQUIRE  
Kimmel, Carter, Roman, & Peltz, P.A.  
56 W. Main Street, Fourth Floor  
Plaza 273  
Newark, DE 19702  
(302) 565-6100  
Attorney for Plaintiff  
Bar ID: 4725

DATE: June 26, 2008



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Case No. 08C-06-223 PLA



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

EARL J. HIBBITTS,

Plaintiff,

v.

CHARLES HALE,  
INDIAN RIVER TRANSPORT, INC.,  
HERITAGE EQUIPMENT  
LEASING, LLC, and, HERITAGE  
MANAGEMENT GROUP, INC,

Defendants.

C.A. No.:

NON-ARBITRATION CASE

JURY TRIAL DEMANDED

THE STATE OF DELAWARE,

TO THE SHERIFF OF KENT COUNTY:

~~YOU ARE COMMANDED:~~

To summon the above named defendant's so that, within 20 days after service hereof upon defendant, exclusive of the day of service, defendant shall serve upon Lawrence Spiller Kimmel, Esquire, plaintiff's attorney, whose address is 200 Biddle Avenue, Suite 101, Springside Plaza, Newark DE 19702, an answer to complaint (and, if an affidavit of demand has been filed, an affidavit of defense).

To serve upon defendant a copy hereof and of the complaint (and of the affidavit of demand if any has been filed by plaintiff).

SHARON AGNEW  
Prothonotary

Per Deputy

TO THE ABOVE NAMED DEFENDANT:

In case of your failure, within 20 days after service hereof upon you, exclusive of the day of service, to serve on plaintiff's attorney named above an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense), judgment by default will be rendered against you for the relief demanded in the complaint (or in the affidavit of demand, if any).

SHARON AGNEW  
Prothonotary

Per Deputy

EFiled: Jun 26 2008 6:56 PM  
Transaction ID 20427072  
Case No. 08C-06-223 PLA



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

EARL J. HIBBITTS,

Plaintiff,

v.

CHARLES HALE,  
INDIAN RIVER TRANSPORT, INC.,  
HERITAGE EQUIPMENT  
LEASING, LLC, and, HERITAGE  
MANAGEMENT GROUP, INC,

Defendants.

C.A. No.:

NON-ARBITRATION CASE

JURY TRIAL DEMANDED

COMPLAINT

1. On Tuesday, 7/18/06, at approximately 4:35 p.m., Plaintiff was operating his vehicle, stopped in traffic on southbound New Castle Avenue, in New Castle, New Castle County, Delaware, when he was struck from the rear by a vehicle left unoccupied by Defendant Hale, who had left his vehicle unattended in a negligent and careless manner, causing his vehicle to roll down a hill and into the Plaintiff's vehicle, causing Plaintiff's vehicle to strike two motor vehicles in front of him, resulting in injuries and damages to Plaintiff.

2. The conduct of Defendant Hale was negligent and careless in a manner which proximately caused the aforesaid accident in that he:

- (a) left his vehicle unattended in violation of 21 Del.C. Section 4182;
- (b) failed to maintain proper control over his vehicle; and,
- (c) operated his vehicle in a careless and/or inattentive manner in violation of 21

Del.C. Section 4176;

(d) failed to effectively set the brake of his vehicle when leaving it unattended in violation of 21 Del.C. Section 4182;

(e) failed to turn the front wheels to the curb or side of the highway in violation of 21 Del.C. Section 4182;

(f) failed to equip his vehicle with brakes adequate to control the movement of and to stop and to hold such vehicle and any trailer or semitrailer attached thereto including 2 separate means of applying the brakes in violation of 21 Del.C. Section 4303;

(g) failed to maintain the brakes of his vehicle in good working order and conform to regulations promulgated by the Secretary in violation of 21 Del.C. Section 4303;

(h) failed to maintain the brakes of his vehicle so the hand brake could hold such vehicle stationary on any grade upon which operated in violation of 21 Del.C. Section 4304;

(i) operated a vehicle with faulty and/or defective equipment, causing said vehicle to move forward when left unattended on the roadway.

3. The negligence of Defendant Hale is imputed to Defendants Indian River Transport, Inc., Heritage Equipment Leasing, LLC, and Heritage Management Group, LLC, since the former was operating the vehicle as the agent, servant and/or employee of Defendants Indian River Transport, Inc., Heritage Equipment Leasing, LLC, and Heritage Management Group, LLC, and was pursuing Defendants Indian River Transport, Inc., Heritage Equipment Leasing, LLC's, and Heritage Management Group, LLC's business at the time of the aforesaid accident. Each Defendant must deny agency by affidavit pursuant to 10 Del. C. Section 3916.

4. As a result of the aforesaid conduct of Defendants, Plaintiff sustained injuries to his head, neck, back, shoulders, right upper extremity, left upper extremity, left lower extremity, right lower extremity, and other injuries, some or all of which may be permanent, pain and suffering, mental distress, a loss of earnings, and other damages.

WHEREFORE, Plaintiff demands judgment against Defendants for his general and special damages, in an amount to be determined by a jury, plus costs and interest.

/s/ LAWRENCE SPILLER KIMMEL  
LAWRENCE SPILLER KIMMEL, ESQUIRE  
Kimmel, Carter, Roman, & Peltz, P.A.  
56 W. Main Street, Fourth Floor  
Plaza 273  
Newark, DE 19702  
(302) 565-6100  
Attorney for Plaintiff  
Bar ID: 4725

DATE: June 26, 2008

EFiled: Jun 26 2008 6:56 PM EDT  
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Case No. 08C-06-223 PLA



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

EARL J. HIBBITTS,

Plaintiff,

v.

CHARLES HALE,  
INDIAN RIVER TRANSPORT, INC.,  
HERITAGE EQUIPMENT  
LEASING, LLC, and, HERITAGE  
MANAGEMENT GROUP, INC,

Defendants.

C.A. No.:

NON-ARBITRATION CASE

JURY TRIAL DEMANDED

**ANSWERS TO SUPERIOR COURT  
FORM 30 INTERROGATORIES**

1. Give the names and present or last known residential and employment address and telephone number of each eye-witness to the incident which is the subject of litigation

**ANSWER:**

See the police report.

2. Give the names and present or last known residential and employment address and telephone number of each person who has knowledge of the facts relating to the litigation.

**ANSWER:**

See those listed in the Police Report, as well as plaintiff's friends, relatives, and business associates.

Christiana Hospital, 4755 Ogletown-Stanton Road, Newark, DE 19710;

Delaware Open MRI, H-42 Omega Drive, Newark, DE 19713;

Glasgow Surgery Center, 2600 Glasgow Ave., Ste. 226, Newark, DE 19702;

Dr. Arnold B. Glassman, 700 Lea Blvd, Suite 102, Wilmington, DE 19802;

Dr. Bruce H. Grossinger, Delaware Neurological Center, 4100 Dawnbrook Dr., Suite 4  
Arbor Point Professional Center, Wilmington, DE 19804;

Dr. Stephen L. Hershey, First State Orthopaedics, Med. Arts Pav. Suites 225 and 238  
4745 Ogletown-Stanton Rd., Newark, DE 19713-1338;

Dr. Victor R. Kalman, Morgan Kalman Clinic, 2501 Silverside Road, Wilmington, DE  
19810;

Dr. Anne C. Mack, Delaware Back Pain & Rehab Center, 2600 Glasgow Avenue  
Suite 210, Newark, DE 19702;

Scomed Supply, Inc., 316 Commerce Drive, Exton, PA 19341.

3. Give the names of all persons who have been interviewed in connection with the  
above litigation, including the names and present and last known residential and  
employment addresses and telephone numbers of the person who made the said  
interviews and name and present or last known residential and employment addresses and  
telephone numbers of persons who have the original and copies of the interview.

**ANSWER:**

None known.

4. Identify all photographs, diagrams, or other representations made in connection with  
the matter in litigation giving the name and present or last known residential and  
employment address and telephone number of the person having the original and copies  
thereof. (In lieu thereof, a copy can be attached.)

**ANSWER:**

See Police Report.

5. Give the name, professional address and telephone number of all expert witnesses presently retained by the party together with the dates of any written opinions prepared by said expert. If an expert is not presently retained, describe by type the experts whom the party expects to retain in connection with the litigation.

ANSWER:

See those physicians listed in Interrogatory number 2 above.

6. Give a brief description of any insurance policy, including excess coverage, that is or may be applicable to the litigation, including:

~~a. The name and address of all companies insuring the risk;~~

b. The policy number;

c. The amount of primary, /secondary, and excessive coverage.

d. The type of insurance;

ANSWER:

Geico Insurance Company, 1 Geico Boulevard, Fredericksburg, VA 22412, (800) 841-1003, Claim Number: 0166116410101061 (15K/30K PIP - Exhausted);

Continental Casualty Company, PO Box 17369, Denver, CO 80217, Claim Number: TR903960 (Unknown LIAB)

5. Give the name, professional address and telephone number of all expert witnesses presently retained by the party together with the dates of any written opinions prepared by said expert. If an expert is not presently retained, describe by type the experts whom the party expects to retain in connection with the litigation.

**ANSWER:**

See those physicians listed in Interrogatory number 2 above.

6. Give a brief description of any insurance policy, including excess coverage, that is or may be applicable to the litigation, including:

- ~~a. The name and address of all companies insuring the risk;~~
- b. The policy number;
- c. The amount of primary, /secondary, and excessive coverage.
- d. The type of insurance;

**ANSWER:**

Geico Insurance Company, 1 Geico Boulevard, Fredericksburg, VA 22412, (800) 841-1003, Claim Number: 0166116410101061 (15K/30K PIP – Exhausted);

Continental Casualty Company, PO Box 17369, Denver, CO 80217, Claim Number: TR903960 (Unknown LIAB)



7. Give the name, professional address, and telephone number of all physicians, chiropractors, psychologists, and physical therapists who have examined or treated you at any time during the ten year period immediately prior to the date of the incident at issue in this litigation.

ANSWER:

To be provided.

/s/ LAWRENCE SPILLER KIMMEL  
**LAWRENCE SPILLER KIMMEL, ESQUIRE**  
Kimmel, Carter, Roman, & Peltz, P.A.  
56 W. Main Street, Fourth Floor  
Plaza 273  
Newark, DE 19702  
(302) 565-6100  
Attorney for Plaintiff  
Bar ID: 4725

DATE: June 26, 2008

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

EARL J. HIBBITTS,

Plaintiff,

v.

CHARLES HALE,  
INDIAN RIVER TRANSPORT, INC.,  
HERITAGE EQUIPMENT  
LEASING, LLC, and, HERITAGE  
MANAGEMENT GROUP, INC,

Defendants.

C.A. No.:

NON-ARBITRATION CASE

JURY TRIAL DEMANDED

**AFFIDAVIT OF COUSEL PURSUANT  
TO RULE 3(a)(1)(ii) AND (iii)**

STATE OF DELAWARE:

: SS

NEW CASTLE COUNTY:

LAWRANCE S. KIMMEL, being duly sworn this 26<sup>th</sup> day of June, 2008,

does depose and say:

1. He is attorney for plaintiff in the above-referenced action.
2. This action involves a claim for personal injuries where the plaintiff claims special damages that have and will be supplied.

**FILING IN COMPLIANCE WITH SUPERIOR COURT RULE 3(h)**

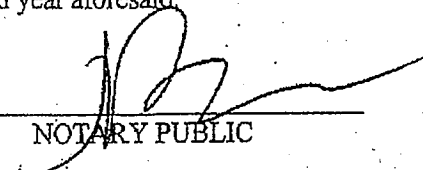
In compliance with Superior Court Civil Rule 3(h), Plaintiff attaches the following documentation:

- (i) Answers to Form 30 Interrogatories;
- (ii) Due to the volume of documentary evidence gathered in this case, it is impractical to attach photocopies of all documents to the complaint. Copies of all

documents discoverable under this rule will be forwarded to the attorney for the defendant once an appearance is made by defendant's counsel and a written request for these documents is made.

  
LAWRANCE SPILLER KIMMEL

SWORN TO AND SUBSCRIBED before me the day and year aforesaid.

  
NOTARY PUBLIC

JONATHAN B. O'NEILL  
ATTORNEY AT LAW  
Notarial Officer, State of Delaware  
Pursuant to 29 Del. C. § 4303(a)(2)  
This commission expires 08/08/2011

## **EXHIBIT “B”**

[Click to Print](#)

Printed on: Thursday, August 07, 2008 11:48:54 EDT

**Case History Search**

Search Created:

Thursday, August 07, 2008 11:48:54 EDT

<b>Court:</b>	DE Superior Court-New Castle County	<b>Judge:</b>	Ableman, Peggy L	<b>File &amp; Serve Live Date:</b>	6/26/2008
<b>Division:</b>		<b>Case Number:</b>	08C-06-223 PLA	<b>Document(s) Filed:</b>	9
<b>Case Type:</b>	CPIA - Personal Injury Auto	<b>Case Name:</b>	Hibbitts, Earl J vs Charles Hale	<b>Date Range:</b>	All

1-4 of 4 transactions &lt;&lt;Prev Page 1 of 1 Next&gt;&gt;

<u>Transaction</u>	<u>Date/Time</u>	<u>Option</u>	<u>Case Number</u> <u>Case Name</u>	<u>Authorizer</u> <u>Organization</u>	<u>#</u>	<u>Document Type</u>	<u>Document Title</u>	<u>Size</u>
20909142	8/4/2008 10:44 AM EDT	File And Serve	08C-06-223 PLA Hibbitts, Earl J vs Charles Hale	Sharon Agnew, DE Superior Court-New Castle County	4	Sheriffs Return	SHERIFF'S RETURN SERVED CHARLES HALE & INDIAN RIVER TRAN, INC HERITAGE EQUIP LEASING & HERITAGE MANGT GROUP. SERVING S.O.S. ON 07-21- 08	0.1MB
20909015	8/4/2008 10:39 AM EDT	File And Serve	08C-06-223 PLA Hibbitts, Earl J vs Charles Hale	Sharon Agnew, DE Superior Court-New Castle County	3	Sheriffs Return	SHERIFF'S RETURN SERVED INDIAN RIVER TRASPORT, INC, HERITAGE EQUIPMENT LEASING & HERITAGE MANAGEMENT GROUP & CHARLES HALE. BY SERVING S.O.S. ON 7-21- 08.	0.1MB
20585949	7/10/2008 12:32 PM EDT	File Only	08C-06-223 PLA Hibbitts, Earl J vs Charles Hale	Peggy L Ableman, DE Superior Court-New Castle County	2	Writ(s) Issued	(4) writs issued - Sec. of State	0MB
20427072	6/26/2008 6:56 PM EDT	File Only	08C-06-223 PLA Hibbitts, Earl J vs Charles Hale	Lawrance S Kimmel, Kimmel Carter Roman & Peltz PA-Bear	1	Complaint	Hibbitts v. Hale, et. al., - COMPLAINT	0.1MB
						Case Information Statement	Hibbitts v. Hale, et. al., - CASE INFORMATION STATEMENT	0.1MB
						Praecipe	Hibbitts v. Hale, et. al., - PRAECIPE	0.1MB
						Summons	Hibbitts v. Hale, et. al., - SUMMONS	0.1MB
						Form 30	Hibbitts v. Hale, et. al., - FORM 30	0.1MB
						Interrogatories	INTERROGATORIES	
						Affidavit	Hibbitts v. Hale, et. al., - AFFIDAVIT OF COUNSEL	0.1MB

1-4 of 4 transactions &lt;&lt;Prev Page 1 of 1 Next&gt;&gt;

## **EXHIBIT “C”**

LAW OFFICES

**KIMMEL, CARTER, ROMAN & PELTZ**

PROFESSIONAL ASSOCIATION

PLAZA 273 & I-95

MAILING ADDRESS

P.O. BOX 8149

NEWARK, DELAWARE 19714

(302) 565-6100

FAX (302) 565-6101

WILMINGTON OFFICE

913 MARKET STREET

SUITE 700

WILMINGTON, DE

(302) 571-0800

WEB SITE

[www.Kimmelcarter.com](http://www.Kimmelcarter.com)

MORTON RICHARD KIMMEL \*  
EDWARD B. CARTER, JR.  
THOMAS J. ROMAN  
WILLIAM R. PELTZ  
MICHAEL D. BEDNASH  
MATTHEW M. BARTKOWSKI \*\*  
JONATHAN B. O'NEILL \*\*\*  
LAWRANCE SPILLER KIMMEL \*\*\*\*

\* ALSO MEMBER DC BAR  
\*\* ALSO MEMBER PA BAR  
\*\*\* ALSO MEMBER NJ BAR  
\*\*\*\* ALSO MEMBER PA & NJ BARS

July 3, 2008

Re: Earl Hibbitts vs. Hale, et al.  
Date of Accident: 7/18/06  
Claim #: TR903960

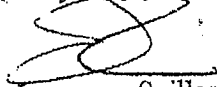
Mr. Jack Donovan  
CNA Claim Plus  
2345 Commerce Avenue  
Building 2200  
Duluth, GA 30096

Dear Mr. Donovan:

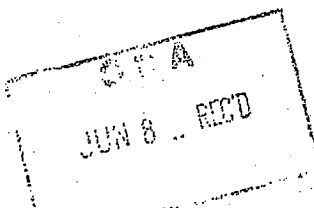
Enclosed please find a copy of the complaint, which I e-filed with the Court on June 26, 2008. Please be advised that our new demand is \$240,000.00. Please contact me to discuss further.

Thank you.

Very truly yours,

  
Lawrance Spiller Kimmel

LSK/bel  
Enclosure



## **EXHIBIT “D”**



## FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS

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### Detail by Entity Name

#### Florida Profit Corporation

INDIAN RIVER TRANSPORT CO.

#### Filing Information

Document Number P93000022942  
FEI Number 593172232  
Date Filed 03/26/1993  
State FL  
Status ACTIVE  
Effective Date 03/24/1993  
Last Event NAME CHANGE AMENDMENT  
Event Date Filed 03/29/1993  
Event Effective Date NONE

#### Principal Address

2580 EXECUTIVE RD  
WINTER HAVEN FL 33884-1163

Changed 03/14/2006

#### Mailing Address

2580 EXECUTIVE RD  
WINTER HAVEN FL 33884-1163

Changed 01/09/2008

#### Registered Agent Name & Address

HARNED, JOHN J JR  
2580 EXECUTIVE RD  
WINTER HAVEN FL 33884 US

Address Changed: 03/20/2002

#### Officer/Director Detail

##### Name & Address

Title D:

HARNED, JOHN J JR  
2580 EXECUTIVE ROAD  
WINTER HAVEN FL 33884-1163

#### Annual Reports

Report Year Filed Date

2006 03/14/2006

## **EXHIBIT “E”**

FLORIDA DEPARTMENT OF STATE  
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## Detail by Entity Name

### Florida Limited Liability Company

HERITAGE EQUIPMENT LEASING, LLC

### Filing Information

**Document Number** L03000038671  
**FEI Number** 200309976  
**Date Filed** 10/09/2003  
**State** FL  
**Status** ACTIVE  
**Last Event** NAME CHANGE AMENDMENT  
**Event Date Filed** 03/24/2004  
**Event Effective Date** NONE

### Principal Address

2580 EXECUTIVE ROAD  
WINTER HAVEN FL 33884-1163

Changed 02/08/2007

### Mailing Address

2580 EXECUTIVE ROAD  
WINTER HAVEN FL 33884-1163

Changed 03/14/2006

### Registered Agent Name & Address

HARNED, JOHN J JR.  
2580 EXECUTIVE ROAD  
WINTER HAVEN FL 33884

Name Changed: 03/29/2004

### Manager/Member Detail

#### Name & Address

Title MGR

HARNED, JOHN J JR.  
2580 EXECUTIVE ROAD  
WINTER HAVEN FL 33884

### Annual Reports

#### Report Year Filed Date

2006 03/14/2006  
2007 02/08/2007

## **EXHIBIT “F”**

# FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS

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## Detail by Entity Name

### Florida Profit Corporation

HERITAGE MANAGEMENT GROUP, INC.

### Filing Information

Document Number P03000112255  
FEI Number 200309849  
Date Filed 10/09/2003  
State FL  
Status ACTIVE  
Last Event NAME CHANGE AMENDMENT  
Event Date Filed 03/22/2004  
Event Effective Date NONE

### Principal Address

2580 EXECUTIVE RD.  
WINTER HAVEN FL 33884-1163

Changed: 03/14/2006

### Mailing Address

2580 EXECUTIVE RD.  
WINTER HAVEN FL 33884-1163

Changed: 03/14/2006

### Registered Agent Name & Address

HARNED, JOHN J JR.  
2580 EXECUTIVE RD.  
WINTER HAVEN FL 33884

Address Changed: 03/14/2006

### Officer/Director Detail

#### Name & Address

Title D

HARNED, JOHN J JR.  
2580 EXECUTIVE RD.  
WINTER HAVEN FL 33884

### Annual Reports

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JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Earl J. Hibbits

(b) County of Residence of First Listed Plaintiff New Castle  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Lawrance Spiller Kimmel, Kimmel, Carter, Roman & Peltz, 56 W.  
Main Street, Fourth Floor, Plaza 273, Newark, DE 19702

## DEFENDANTS

Indian River Transport, Inc., Heritage Equipment Leasing,  
LLC, Heritage Management Group, Inc., and Charles Hale

County of Residence of First Listed Defendant Polk  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

Delia Clark, Rawle & Henderson, LLP, 300 Delaware Ave,  
Suite 1015, Wilmington, DE 19801

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

- (Place an "X" in One Box Only)
- ☐ 1 Original Proceeding  
☒ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1332

Brief description of cause:  
Motor Vehicle Accident

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/08/2008

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_